

AMENDED IN SENATE AUGUST 27, 2009

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 756

Introduced by Assembly Members Eng and Lieu

(Principal coauthor: Senator Leno)

(Coauthor: Assembly Member Jones)

(Coauthor: Senator Oropeza)

February 26, 2009

An act to add Section 10111.5 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 756, as amended, Eng. Public contracts: information: Internet Web site.

Existing law governing contracting between state agencies and private contractors sets forth requirements for the procurement of supplies, materials, equipment, and services by state agencies and sets forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies.

This bill would require a state agency, except as specified, to provide a link to a centrally located and accessible state-run Internet Web site

that includes a list of the personal services and consulting services contracts, as defined, entered into by the agency. This bill would require the listings on the state's Internet Web site to include specified information, and would require ~~all new contracts~~, *on and after January 1, 2012, a summary of a contract* to be initially posted within 15 working days of being signed by all parties. *This bill would require the Director of the Department of General Services to maintain the Internet Web site and to establish the publishing of the contract listing information. This bill would also authorize the department to use the services of any state agency.*

This bill would require contractors to electronically provide specified information to assist state agencies in the reporting of information for the listings of personal services and consulting services contracts.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 10111.5 is added to the Public Contract*
- 2 *Code, to read:*
- 3 *10111.5. (a) (1) Each state agency shall provide a link to a*
- 4 *centrally located and accessible state-run Internet Web site that*
- 5 *includes a listing of the personal services and consulting services*
- 6 *contracts that it entered into during the fiscal year.*
- 7 *(2) The Director of the Department of General Services shall*
- 8 *maintain the Internet Web site and shall establish the publishing*
- 9 *of the contract listing information specified in subdivision (c). In*
- 10 *implementing this section, the Department of General Services*
- 11 *may use the services of any state agency, as that term is defined*
- 12 *in Section 11000 of the Government Code.*
- 13 *(3) It is the intent of the Legislature that the contract listing*
- 14 *information be made available to the public in an electronic format*
- 15 *that is searchable and easy to use in order to promote and support*
- 16 *government transparency.*
- 17 *(b) Contract listings shall be organized and reported in one of*
- 18 *the following manners:*
- 19 *(1) Using the maximum level of specificity available through*
- 20 *the United Nations Standard Products and Services Code*
- 21 *(UNSPSC).*
- 22 *(2) Covering the following broad category names:*

1 (A) Architectural, engineering, and environmental services and
2 consulting services.

3 (B) Information technology personal services and consulting
4 services.

5 (C) Other personal services and consulting services.

6 (c) The contract listings shall include, but is not limited to, the
7 following information:

8 (1) The name and license, registration, certification, or
9 identification number of each contractor, as well as whether the
10 contractor is a for profit, nonprofit, small business, micro-business,
11 disabled veteran, or nonprofit veteran's service agency.

12 (2) The statutory basis for the authorization of each contract,
13 including, if relevant, any applicable condition permitting personal
14 services contracts provided by Section 19130 of the Government
15 Code.

16 (3) The duration of each contract.

17 (4) The number of amendments to each contract and the number
18 of renewals of each contract, where applicable.

19 (5) Reason why low bid was not accepted, if applicable.

20 (6) Reason for noncompetitive bidding, if applicable.

21 (7) (A) The total amount of the contract allocation over the
22 duration of the contract, including all known amendments to the
23 contract, the total amount paid by the state agency during the most
24 recently completed fiscal year, and the number, cost, bill rate, and
25 staffing levels associated with each type of contract employee
26 retained during the most recently completed fiscal year. In time
27 and material contracts, staffing levels shall also be described or
28 accounted for in personnel years or full-time equivalent terms. In
29 deliverables based contracts, average staffing levels and bill rates
30 shall be available and reportable 90 days after the completion of
31 the contract or after one year, whichever occurs first.

32 (B) To facilitate state agency reporting of information for the
33 listings, contractors shall electronically provide all of the staffing
34 and cost information specified in subparagraph (A) to the agencies,
35 which shall be reportable 90 days after the completion of the
36 contract or after one year for each and every personal services
37 and consulting services contract operative during that fiscal year.

38 (C) This paragraph shall become operative on January 1, 2011.

39 (d) (1) A summary of a contract shall be initially posted within
40 30 working days of the contract being signed by all parties. On

1 *and after January 1, 2012, the summary of a contract shall be*
2 *initially posted within 15 working days of the contract being signed*
3 *by all parties. The contract summary shall be updated as necessary*
4 *to include any information required by this section that is not*
5 *available at the time of posting.*

6 *(2) Notwithstanding paragraph (1), a summary of a contract*
7 *entered into by a special fund agency, as determined by the*
8 *Department of General Services in consultation with the*
9 *Department of Finance, shall be posted beginning on July 1, 2010.*
10 *A summary of a contract entered into by any other agency shall*
11 *be posted beginning on July 1, 2011.*

12 *(3) This section shall only apply to contracts solicited after the*
13 *effective date of this section.*

14 *(e) This section shall not apply to information resulting from*
15 *contracts for confidential expert consulting services that constitutes*
16 *an attorney work product, is protected by the attorney-client*
17 *privilege, or results from a court order.*

18 *(f) Any inquiries about a specific contract shall be handled by*
19 *the contracting state agency. Each contract posted on the Internet*
20 *Web site shall include the contact information of the contracting*
21 *state agency, or a link to that information.*

22 *(g) State agencies that are not required to report to the State*
23 *Contract and Procurement Registration System (SCPRS) shall be*
24 *exempt from the requirements of this section.*

25 *(h) For purposes of this section, the following definitions apply:*

26 *(1) "Consulting services contracts" has the same meaning as*
27 *defined in Section 10335.5.*

28 *(2) "Deliverables" means any contract, requisition, or*
29 *purchasing order, excluding public works contracts that does not*
30 *specify actual cost of direct labor at specified hourly rates or actual*
31 *cost of materials. These contracts are for products or services that*
32 *must be completed and delivered as final products under the terms*
33 *of an agreement or contract.*

34 *(3) "Personal services contracts" means any contract,*
35 *requisition, or purchase order under which labor or personal*
36 *services is a significant, separately identifiable element.*

37 *(4) "Time and material contract" means a contract under which*
38 *the contractor agrees to furnish and install materials or fixtures,*
39 *or both, and which sets forth separately a charge for the materials*
40 *or fixtures and a charge for their installation or fabrication.*

1 ~~SECTION 1. Section 10111.5 is added to the Public Contract~~
2 ~~Code, to read:~~

3 ~~10111.5. (a) Each state agency shall provide a link to a~~
4 ~~centrally located and accessible state-run Internet Web site that~~
5 ~~includes a list of the personal services and consulting services~~
6 ~~contracts that it entered into during the previous fiscal year. All~~
7 ~~listings shall be available in searchable form on the state's Internet~~
8 ~~Web site and without charge to the public. The listings shall be~~
9 ~~organized to ensure transparency. All new contracts shall be~~
10 ~~initially posted within 15 working days of being signed by all~~
11 ~~parties, and shall be updated as necessary to include any~~
12 ~~information required by this section that is not available at the time~~
13 ~~of posting. The listings shall include, but is not limited to, the~~
14 ~~following information:~~

15 ~~(1) The name and license, registration, certification, or~~
16 ~~identification number of each contractor, as well as whether the~~
17 ~~contractor is a for profit, nonprofit, small business, micro-business,~~
18 ~~disabled veteran, or nonprofit veteran's service agency.~~

19 ~~(2) The statutory basis for the authorization of each contract,~~
20 ~~including, if relevant, any applicable condition permitting personal~~
21 ~~services contracts provided by Section 19130 of the Government~~
22 ~~Code.~~

23 ~~(3) The duration of each contract.~~

24 ~~(4) The number of amendments to each contract and the number~~
25 ~~of renewals of each contract, where applicable.~~

26 ~~(5) Reason why low bid was not accepted.~~

27 ~~(6) Reason for noncompetitive bidding.~~

28 ~~(7) (A) The total amount of the contract allocation over the~~
29 ~~duration of the contract, including all known amendments to the~~
30 ~~contract, the total amount paid by the state agency during the most~~
31 ~~recently completed fiscal year, and the number, cost, bill rate, and~~
32 ~~staffing levels associated with each type of contract employee~~
33 ~~retained during the most recently completed fiscal year. In time~~
34 ~~and material contracts, staffing levels shall also be described or~~
35 ~~accounted for in personnel years or full-time equivalent terms. In~~
36 ~~deliverables based contracts, average staffing levels and bill rates~~
37 ~~shall be available and reportable 90 days after the completion of~~
38 ~~the contract or after one year, whichever occurs first.~~

39 ~~(B) This paragraph shall become operative on January 1, 2011.~~

1 ~~(8) Contract listings shall be organized and reported in one of~~
2 ~~the following manners:~~

3 ~~(A) Using the maximum level of specificity available through~~
4 ~~the United Nations Standard Products and Services Code~~
5 ~~(UNSPSC):~~

6 ~~(B) Using the following broad category names:~~

7 ~~(i) Architectural, engineering, and environmental services and~~
8 ~~consulting services:~~

9 ~~(ii) Information technology personal services and consulting~~
10 ~~services:~~

11 ~~(iii) Other personal services and consulting services:~~

12 ~~(iv) Information technology goods contracts:~~

13 ~~(v) Non-information technology goods contracts:~~

14 ~~(vi) Public works contracts:~~

15 ~~(b) For purposes of this section, the following definitions apply:~~

16 ~~(1) “Consulting services contracts” has the same meaning as~~
17 ~~defined in Section 10335.5:~~

18 ~~(2) “Personal services contracts” means any contract, requisition,~~
19 ~~or purchase order under which labor or personal services is a~~
20 ~~significant, separately identifiable element:~~

21 ~~(3) “Time and material contract” means a contract under which~~
22 ~~the contractor agrees to furnish and install materials or fixtures,~~
23 ~~or both, and which sets forth separately a charge for the materials~~
24 ~~or fixtures and a charge for their installation or fabrication:~~

25 ~~(4) “Deliverables” means any contract, requisition, or purchasing~~
26 ~~order, excluding public works contracts that does not specify actual~~
27 ~~cost of direct labor at specified hourly rates or actual cost of~~
28 ~~materials. These contracts are for products or services that must~~
29 ~~be completed and delivered as final products under the terms of~~
30 ~~an agreement or contract:~~

31 ~~(c) To facilitate state agency reporting of information for the~~
32 ~~listings, contractors shall electronically provide all of the staffing~~
33 ~~and cost information specified in paragraph (7) of subdivision (a)~~
34 ~~to the agencies, which shall be reportable 90 days after the~~
35 ~~completion of the contract or after one year for each and every~~
36 ~~personal services and consulting services contract operative during~~
37 ~~that fiscal year:~~

38 ~~(d) The information required by subdivision (a) shall be made~~
39 ~~available to the public in an electronic format that is searchable~~

1 and easy to use in order to promote and support government
2 transparency.

3 (e) ~~This section shall not apply to information resulting from~~
4 ~~contracts for confidential expert consulting services that constitutes~~
5 ~~an attorney work product, is protected by the attorney-client~~
6 ~~privilege, or results from a court order.~~

7 (f) ~~State agencies that are not required to report to the State~~
8 ~~Contract and Procurement Registration System (SCPRS) shall be~~
9 ~~exempt from the requirements of this section.~~

10 (h) ~~This section does not in any manner affect the public~~
11 ~~disclosure requirements of the California Public Records Act~~
12 ~~(Chapter 3.5 (commencing with Section 6250) of Division 7 of~~
13 ~~Title 1 of the Government Code).~~